

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

643M0609

SENATE ENGROSSED NO. **SB 194** - 02/08/2006

Introduced by: Senators Nesselhuf, Hanson (Gary), Kloucek, Kooistra, and Olson (Ed) and
Representatives Dykstra, Bradford, Hargens, Murschel, Pederson (Gordon),
Rounds, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to revise the definition of wine for farm wineries.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 35-12-1 be amended to read as follows:

4 35-12-1. Terms used in this chapter mean:

5 (1) "Farm winery," any winery operated by the owner of a South Dakota farm and
6 producing table, sparkling, or sacramental wines ~~from grapes, grape juice, other fruit~~
7 ~~bases, or honey~~ as defined in subdivision (2) or wine as defined in subdivision (3),
8 with a majority of the ingredients grown or produced in South Dakota;

9 (2) "Table, sparkling, and sacramental wines," any beverage made without rectification
10 or fortification and containing not more than ~~eighteen~~ twenty-four percent alcohol by
11 volume and made by the fermentation of grapes, grape juice, other fruits, or honey;

12 (3) "Wine," any beverage made without rectification, except for the purpose of
13 fortification, from the fermentation of grapes, grape juice, other fruit bases, or honey,
14 with or without adding brandy or alcohol, and containing not less than one-half
15 percent and not more than twenty-four percent alcohol by volume.



Section 2. That § 35-12-2 be amended to read as follows:

35-12-2. The secretary of the Department of Revenue and Regulation may issue a farm winery license to the owner or operator of a farm winery located within the state and producing table wines, sparkling wines, and sacramental ~~wine~~ wines, or wine as defined in subdivision 35-12-1(3). Licenses may be issued and renewed for an annual fee of one hundred dollars, which is in lieu of all other license fees required by chapter 35-4. The fee shall be deposited in the general fund.

Section 3. That § 35-12-3 be amended to read as follows:

35-12-3. Except as otherwise specified in this chapter, all provisions of this title apply to the production, sale, possession, and consumption of table wines, sparkling wines, and sacramental wines, or wine as defined in subdivision 35-12-1(3), produced by a farm winery.

Section 4. That § 35-12-4 be amended to read as follows:

35-12-4. The holder of a farm winery license may manufacture wine in the state from South Dakota produced or grown grapes, grape juice, other fruit bases, or honey. If South Dakota produced or grown grapes, grape juice, other fruits, or honey are not available in quantities sufficient to constitute a majority of the table or sparkling wine, or wine as defined in subdivision 35-12-1(3), produced by a farm winery, the holder of the farm winery license may file an affidavit with the secretary of the Department of Revenue and Regulation stating this fact and requesting that the secretary approve the use of imported products by the winery. If the secretary approves, the farm winery may use imported products and shall continue to be governed by the provisions of this chapter. The secretary's approval is effective for a period of one year, after which the farm winery shall use South Dakota grown or produced grapes, grape juice, other fruits, or honey unless the farm winery license holder files a new affidavit and request with the secretary and the secretary approves the request.

1 Section 5. That § 35-12-5 be amended to read as follows:

2 35-12-5. A license issued pursuant to § 35-12-2 authorizes the sale on the farm winery
3 premises of table wine, sparkling wines, or sacramental wines, or any wine as defined in
4 subdivision 35-12-1(3), produced by the farm winery at on-sale or off-sale, in retail, or
5 wholesale lots in total quantities not in excess of fifty thousand gallons in a calendar year,
6 glassware, wine literature and accessories, food products, South Dakota made products, and the
7 dispensing of free samples of wines offered for sale. Sales at on-sale and off-sale may be made
8 at any time during the week except on Sundays when the on-sale and off-sale sales are restricted
9 to between twelve noon and twelve midnight.

10 Section 6. That § 35-12-7 be amended to read as follows:

11 35-12-7. There is hereby levied on all table and sparkling wines, and wine as defined in
12 subdivision 35-12-1(3), manufactured or produced by a South Dakota winery an excise tax
13 imposed at the same rates and collected and administered in the same manner as the tax imposed
14 on wine in chapter 35-5. Sacramental wines are exempt from the tax imposed by this section.